

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Annette Rodriguez	Team: Squad #8	CCRB Case #: 202200001	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 12/18/2021 5:49 PM	Location of Incident: § 87(2)(b) [REDACTED]	Precinct: 77	18 Mo. SOL 6/18/2023	EO SOL 6/18/2023	
Date/Time CV Reported Thu, 12/30/2021 8:02 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 12/30/2021 8:02 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. PO Melissa Granados	04360	970562	077 PCT
2. PO Mark Henry	06715	948046	077 PCT
3. PO Kevin Hernandez	07459	966620	077 PCT
4. An officer			
5. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Matthew Ondrejack	02668	956989	077 PCT
2. PO Gerber Lizardo	15063	960814	077 PCT
3. PO Zaid Riaz	28495	967292	077 PCT
4. PO John Polacsek	24323	946126	077 PCT
5. SGT Jonathan Cotter	05048	953785	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Kevin Hernandez	Abuse: Police Officer Kevin Hernandez asked about § 87(2)(b) s immigration status.	[REDACTED]
B. PO Kevin Hernandez	Abuse: Police Officer Kevin Hernandez refused to provide his name to § 87(2)(b)	[REDACTED]
C. PO Kevin Hernandez	Abuse: Police Officer Kevin Hernandez refused to provide his shield number to § 87(2)(b)	[REDACTED]
D. PO Kevin Hernandez	Abuse: Police Officer Kevin Hernandez obstructed his shield number.	[REDACTED]
E. An officer	Discourtesy: An Officer spoke discourteously to § 87(2)(b)	[REDACTED]
F. An officer	Discourtesy: An Officer spoke discourteously to § 87(2)(b)	[REDACTED]
G. PO Melissa Granados	Abuse: Police Officer Melissa Granados threatened to arrest § 87(2)(b)	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On December 30, 2021, § 87(2)(b) filed this complaint via the CCRB's call processing system.

On December 18, 2021, at approximately 5:49 p.m., § 87(2)(b) went to his former place of employment, § 87(2)(b) in Brooklyn, to pick up his paycheck. § 87(2)(b) spoke with § 87(2)(b) an employee at the pizzeria, who told him to wait outside. Four officers responded to the location. PO Kevin Hernandez of the 77th Precinct allegedly asked § 87(2)(b) "Are you illegal, citizenship?" (**Allegation A: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) then requested PO Hernandez's name and shield number and PO Hernandez allegedly placed his hand over his shield and stated that he would not show § 87(2)(b) anything (**Allegations B-D: Abuse of Authority, § 87(2)(g)**). An unidentified officer then allegedly asked § 87(2)(b) "Are you fucking stupid?" (**Allegation E: Discourtesy, § 87(2)(g)**). An additional unidentified officer then allegedly stated, "Get the fuck out of here" (**Allegation F: Discourtesy, § 87(2)(g)**). PO Melissa Granados of the 77th Precinct allegedly added "Get out of here, if not you will be arrested" (**Allegation G: Abuse of Authority, § 87(2)(g)**). § 87(4-b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

This incident did not result in a summons or arrest.

There is no video footage depicting this incident.

IAB conducted a concurrent investigation into the alleged questioning of § 87(2)(b)'s immigration status and closed the case with a finding of Unsubstantiated (Board Review 20).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Kevin Hernandez asked about § 87(2)(b)'s immigration status.

Allegation (B) Abuse of Authority: Police Officer Kevin Hernandez refused to provide his name to § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Kevin Hernandez refused to provide his shield number to § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Kevin Hernandez obstructed his shield number.

§ 87(2)(b) was interviewed by the CCRB on January 10, 2022. § 87(2)(b) testified that on December 18, 2021, at approximately 5:49 p.m., he went to his former place of employment to pick up his paycheck. Upon arrival, § 87(2)(b) met with § 87(2)(b) an employee and cousin of the owner of the pizzeria. § 87(2)(b) told § 87(2)(b) to wait outside of the pizzeria. § 87(2)(b) went outside and observed § 87(2)(b) make a call. § 87(2)(b) remained outside, approximately five feet away from the entrance of the pizzeria. Less than five minutes later, either two or three police vehicles arrived, and four or five officers exited their vehicles. An officer, identified by the investigation as PO Hernandez, entered the pizzeria and spoke with § 87(2)(b) while the remaining officers stood beside § 87(2)(b) § 87(2)(b) did not hear the conversation between § 87(2)(b) and PO Hernandez, but heard § 87(2)(b) say "it is him," and saw him point at him. PO Hernandez then exited the pizzeria and told the other officers that there was "nothing here," and told § 87(2)(b) that § 87(2)(b) would not pay him. § 87(2)(b)

§ 87(2)(b) told PO Hernandez that § 87(2)(b) owed him two weeks of pay. PO Hernandez then asked § 87(2)(b) “Are you illegal? Citizenship?” § 87(2)(b) responded that he did not have the right to ask him that and requested PO Hernandez’s name and shield number. PO Hernandez then placed his hand over his chest, covering his shield, and stated that he would not show him anything (Board Review 01).

§ 87(2)(b) was interviewed by the CCRB on January 20, 2022. § 87(2)(b) testified that § 87(2)(b) was scheduled to work at 12:00 p.m. on December 18, 2021 and arrived late. § 87(2)(b) had problems with § 87(2)(b) arriving late and giving free food to Mexican customers. When § 87(2)(b) confronted § 87(2)(b) about these issues, § 87(2)(b) took off his uniform, quit, and left the store angrily. Later that same day, § 87(2)(b) called § 87(2)(b) and told him he was going to the store and would hit him. When § 87(2)(b) arrived, he remained outside of the pizzeria. The pizzeria door was open, and § 87(2)(b) yelled for § 87(2)(b) to come outside, and that he was going to hit him. § 87(2)(b) called the police and informed them that § 87(2)(b) threatened him. Two officers arrived at the pizzeria approximately 10 to 15 minutes later. § 87(2)(b) pointed at § 87(2)(b) and informed the officers that he was the individual making the threats. The officers told § 87(2)(b) that they would deal with it and told him to stay inside the pizzeria. § 87(2)(b) did not leave the store and was unable to hear any conversation between the officers and § 87(2)(b). The officers entered the store for a second time approximately 10 to 15 minutes later and told § 87(2)(b) that § 87(2)(b) would not be back to bother him. The officers then left the location (Board Review 02).

PO Hernandez was interviewed at the CCRB on July 15, 2022. PO Hernandez testified that on December 18, 2021, at approximately 5:49 p.m., he received a radio call for a 10-10, a call for help involving a knife, at § 87(2)(b) in Brooklyn. Upon arrival, PO Hernandez observed § 87(2)(b) standing on the sidewalk, facing the pizzeria. PO Hernandez believed that four additional officers arrived on scene at the same time as himself and his partner, PO Mark Henry of the 77th Precinct. PO Hernandez believed PO Matthew Ondrejack of the 77th Precinct was among one of the officers but did not recall who the other responding officers were. PO Hernandez entered the pizzeria alone while § 87(2)(b) remained outside with the other officers. PO Hernandez spoke to § 87(2)(b) in Spanish. § 87(2)(b) stated that he and § 87(2)(b) had a dispute, though he did not recall what the dispute was about. PO Hernandez asked § 87(2)(b) if § 87(2)(b) had a knife or had displayed a knife and § 87(2)(b) stated that he had not and that he wanted the officers to tell § 87(2)(b) that he could not return to the pizzeria. PO Hernandez then exited the pizzeria approximately two to three minutes later and joined § 87(2)(b) and the other officers. PO Hernandez was the only officer who spoke to § 87(2)(b) because § 87(2)(b) spoke Spanish. PO Hernandez did not recall what § 87(2)(b) told him but believed they talked about his employment at the pizzeria. PO Hernandez asked § 87(2)(b) if he had displayed a knife or had a knife and § 87(2)(b) stated that he did not have a knife. PO Hernandez informed § 87(2)(b) that the owner did not want him at the pizzeria anymore, so he could not return. PO Hernandez did not ask § 87(2)(b) about his immigration status nor did any other officer on scene. PO Hernandez did not ask § 87(2)(b) “Are you illegal? Citizenship?” nor did any other officer on scene. § 87(2)(b)’s immigration status was not brought up in conversation. § 87(2)(b) did not request PO Hernandez’s name and shield number, nor did he request any other officer’s name and shield number. PO Hernandez did not refuse to provide his name and shield number to § 87(2)(b) nor did any other officer. PO Hernandez did not cover his name and shield with his hand at any point during the interaction, nor did he observe any other officer do so. PO Hernandez’s name and shield were not covered in any other manner during the interaction. PO Hernandez did not learn at any point during the interaction why the job came over as there having been a knife involved. No one on scene had stated that § 87(2)(b) had

threatened anyone. § 87(2)(b) then voluntarily left the scene. All officers on scene then left the location as well.

PO Hernandez testified that he activated his BWC during this incident but stated that when he attempted to review the footage in March of 2022, for his GO-15 interview, he realized that the footage had expired and was therefore deleted. PO Hernandez was not aware if there was anything documenting this. PO Hernandez was unaware as to when the footage was deleted or by whom. The system showed that there was no footage listed for the incident date. (Board Review 03).

§ 87(2)(g)

PO Granados testified that she heard the neighboring sector receive a call for a 10-10, possible crime in progress involving a knife. Being that the call involved a weapon, PO Granados and her partner, PO Zaid Riaz of the 77th Precinct, decided to back up the responding unit. PO Granados did not recall if any officer asked § 87(2)(b) about his immigration status. PO Granados did not recall if an officer asked § 87(2)(b) “Are you illegal? Citizenship?” PO Granados did not recall if § 87(2)(b) had brought up the topic of his immigration status. PO Granados did not recall if § 87(2)(b) requested the name and shield number of any officer on scene. PO Granados did not recall if any officer on scene refused to provide their name or shield number to any civilian. PO Granados did not recall if any officer covered their name and shield with their hand or in any other manner (Board Review 04).

§ 87(2)(g)

PO Henry testified that he and PO Hernandez entered the pizzeria and PO Hernandez spoke with § 87(2)(b) who was working behind the counter, in Spanish. PO Henry did not speak Spanish. § 87(2)(b) stated that he called for police because § 87(2)(b) would not leave. PO Henry did not know how long § 87(2)(b) had been standing outside of the pizzeria. PO Henry and PO Hernandez then exited the pizzeria. PO Hernandez explained to § 87(2)(b) in Spanish, that he needed to leave and could not harass § 87(2)(b). § 87(2)(b) stated that he just wanted his check. PO Henry did not ask § 87(2)(b) about his immigration status at any point during this interaction, nor did any other officer. PO Henry did not ask § 87(2)(b) “Are you illegal? Citizenship?” nor did any other officer. § 87(2)(b)'s immigration was not brought up in conversation at any point. § 87(2)(b) did not bring up the topic of his immigration status himself. § 87(2)(b) did not request the name and shield number of any officer on scene. No officer on scene refused to provide their name and shield nor did they cover them in any way. § 87(2)(b) then left the location after being instructed to do so by PO Hernandez. PO Henry also instructed § 87(2)(b) to leave, in English (Board Review 05).

§ 87(2)(g)

Allegation (E) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (F) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer Melissa Granados threatened to arrest

§ 87(2)(b)

§ 87(2)(b) stated that after he requested PO Hernandez's name and shield number, an

unidentified officer asked him, “Are you fucking stupid?” and then began laughing. § 87(2)(b) described this officer as a black male standing at approximately 6’0” tall with a heavy build, weighing approximately 180-190 pounds. § 87(2)(b) stated that another unidentified officer then stated, “Get the fuck out of here.” § 87(2)(b) described this officer as a black male standing at approximately 5’5” tall with an average build. A female officer, identified by the investigation as PO Granados, then told § 87(2)(b) “Get out of here, if not you will be arrested.” As § 87(2)(b) walked away from the officers, he asked, “I am going to be arrested for coming to get my check?” § 87(2)(b) then left the scene (Board Review 01).

PO Hernandez and PO Henry stated that they did not ask § 87(2)(b) “Are you fucking stupid?” nor did they hear any other officer ask that question. Both officers did not tell § 87(2)(b) to “Get the fuck out of here” nor did they hear any other officer make that remark. No officer on scene used any profanity towards § 87(2)(b). No officer on scene told § 87(2)(b) that he could be arrested. No officer on scene stated, “Get out of here, if not you will be arrested.” There was nothing that § 87(2)(b) could have been arrested for (Board Review 03 & 05).

§ 87(2)(g)
PO Granados did not recall if she heard any officer tell § 87(2)(b) to “Get the fuck out of here.” PO Granados did not recall if she told § 87(2)(b) that he could be arrested. PO Granados did not recall if she told § 87(2)(b) “Get out, if not you will be arrested” (Board Review 04).

The investigation requested MOS photographs of all officers that responded to the scene (Board Review 06-13). § 87(2)(b)s descriptions of both subject officers did not correspond to any officer that responded to the location on the date of the incident.

The investigation requested and received the Resource Recap Log which notes all the officers who responded to the scene (Board Review 14). PO Granados was the only female officer who responded to the scene.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(4-b) § 87(2)(g)
[REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Age Group	Percentage of Respondents
18-29	90%
30-49	88%
50-64	85%
65+	78%

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party.
- PO Hernandez has been a member of service for three years and this is the first CCRB complaint to which he has been a subject.
- PO Granados has been a member of service for one year and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.

- As of May 31, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 17).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Squad: 8

Investigator:	<u>Annette Rodriguez</u>	<u>Annette Rodriguez</u>	<u>08/04/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Ethan De Angelo</u>	<u>IM Ethan De Angelo</u>	<u>8/4/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date